

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AUGUST IMAGES, LLC,

Plaintiff,

v.

GIRARD ENTERTAINMENT & MEDIA LLC,
and KEITH GIRARD,

Defendants.

CASE NO. 1:21-cv-09397-ER

DECLARATION OF ELEANOR M. LACKMAN

ELEANOR M. LACKMAN declares as follows:

1. I am a member of the Bar of this Court and a partner in the law firm of Mitchell Silberberg & Knupp LLP, attorneys for Defendants Girard Entertainment & Media LLC and Keith Girard (collectively, “Girard”) in this proceeding. I submit this declaration in support of Girard’s Motion to Dismiss Plaintiff August Images, LLC’s (“Plaintiff”) Second Amended Complaint.

2. Attached hereto as **Exhibit A** are true and correct copies of the copyright registrations for the images at issue. My office collected the attached registrations from the U.S. Copyright Office website based on their reference in the Second Amended Complaint. As federal records, the Court may take judicial notice of them and Girard submits them for that purpose.

3. Attached hereto as **Exhibit B** is a side-by-side comparison of relevant portions of Plaintiff’s Exhibit 2 Nos. 101 and 51 as compared to a true and correct copy of Defendant’s actual use of the exhibit, with red circles added by my office to note proper attribution to author and/or publisher. Exhibit B helps to illustrate the relationship between **Exhibits C** and **D**, defined below.

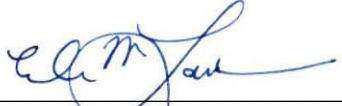
4. Attached hereto as **Exhibit C** are true and correct copies of selected examples of webpages identified in the Second Amended Complaint. Some of them are pages with the articles at issue; others are “server copies” identified in the Second Amended Complaint, *i.e.*, copies hosted on a third-party server that appear visible to the reader of the article even though those images are not hosted in the same location as the text of the article. My office prepared these screenshots using Page Vault authentication software on or around February 17-18, 2022. Extraneous pages have been omitted for convenience of the Court.

5. Attached hereto as **Exhibit D** are true and correct copies of additional selected examples of webpages identified in the Second Amended Complaint. Some of them are pages with the articles at issue; others are server copies, as described above. My office prepared these screenshots using Page Vault authentication software on or around February 17, 2022. Extraneous pages have been omitted for convenience of the Court.

6. Attached here as **Exhibit E** is a report prepared by my office showing the image title as designated by Plaintiff, the registration number for the image, the registration date, and the date of the accused article alleged in the Second Amended Complaint to be infringing.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
June 17, 2022



ELEANOR M. LACKMAN